

REMARKS

I. Status of the Claims

Claims 5 and 25 have been canceled without prejudice. Claims 1 and 12 have been amended without prejudice. Claims 1-4, 6-24, and 26-28 remain pending.

II. Rejection under 35 U.S.C. § 102(e)

In the Office Action, the Examiner rejected claims 1, 4, 7-11, and 27 under 35 U.S.C. § 102(e) as being anticipated by U.S. Publication No. 2002/0084044 to Jollez *et al* (hereafter “the ‘148 provisional publication”).

Initially, Applicants reiterate that U.S. Publication No. 2002/0084044 is available as prior art under § 102(e) based on the November 2, 2000 filing date of the provisional application to which it claims priority (Provisional Application No. 60/245,148-copy enclosed), but not based on the specification filed on November 2, 2001 (U.S. Serial No. 10/008,454). As such, only that subject matter which was disclosed in Provisional Application No. 60/245,148 may be relied upon under § 102(e). See MPEP eighth edition, Revision 2, § 2136.02, (“the disclosure relied on in the rejection must be present in the issued patent or application publication. It is the earliest effective U.S. filing date . . . of the U.S. patent or application publication being relied on as the critical reference date and subject matter not included in the patent or application publication itself can only be used when that subject becomes public . . .”). As U.S. Publication No. 2002/0084044 claims priority to the ‘148 provisional application, which does not describe the claimed invention, U.S. Publication No. 2002/0084044 does not anticipate the present claims for the reasons set forth below.

Applicants further reiterate the argument presented in the previous response dated February 1, 2005: claim 1 is not anticipated by the '148 provisional application as it fails to teach the steps of cooking the pulp in the reactor until the pulp obtains a desired degree of polymerization, said cooking being performed at a temperature, a time, and a pressure which is a function of the desired degree of polymerization and the composition of the pulp, deaggregating the hydrolyzed cellulose and thereafter drying the hydrolyzed cellulose. Moreover, the '148 provisional application does not teach the preparation of a commercially acceptable pharmaceutical grade cellulose as claimed. As claims 4, 7-11, and 27 depend from and incorporate the limitations of claim 1, they too are not anticipated by the '148 provisional application.

In addition to the above, the present claims are not anticipated by the '148 provisional application for the following reason:

Claim 1 has been rewritten to recite, in pertinent part, "j) adding water to the hydrolyzed cellulose of step i) to form a solution, neutralizing the solution to a pH of 5.5 or greater . . ." The '148 provisional application does not teach this limitation. Therefore, claim 1 is not anticipated by the '148 provisional application. As claims 4, 7-11 and 27 depend from and incorporate the limitations of claim 1, they too are not anticipated by the '148 provisional application.

II. Rejection under 35 U.S.C. § 103(a)

The Examiner rejected claims 2, 3, 5, 6, 12-26 and 28 under 35 U.S.C. § 103(a) as being unpatentable over Jollez.

As discussed above regarding the § 102(e) rejection, claim 1 has been rewritten to recite, in pertinent part, “j) adding water to the hydrolyzed cellulose of step i) to form a solution, neutralizing the solution to a pH of 5.5 or greater . . .”

The Examiner asserted that “Jollez discloses pH of the filtered solution to be 5.3. After addition of a brightening [sic] of a pH of up to 10.5, it would have been obvious to one skilled in the art at the time the invention was made that the neutralization would result in a pH of a range claimed”. The Examiner has clearly acknowledged that Jollez discloses the addition of brightening agent e.g., hydrogen peroxide (see Jollez at page 12, lines 15-17), not water as now recited in amended claim 1 of the present application. Clearly, Jollez fails to teach or suggest the addition of water, prior to de-aggregation, to the hydrolyzed cellulose of step i) to form a solution, neutralizing the solution to a pH of 5.5 or greater as recited in claim 1. As claims 2, 3, 5, and 6 depend from and incorporate the limitations of claim 1, they are also not obvious over the ‘148 provisional application.

With respect to claim 12, Applicants respectfully submit that the ‘148 provisional application does not teach or suggest cooking pulp in a reactor until the pulp obtains a desired degree of polymerization, said cooking being performed at a temperature, a time, and a pressure which is a function of the desired degree of polymerization and the composition of the pulp. The ‘148 provisional application further fails to teach or suggest feeding the hydrolyzed cellulose into a colloid mill followed by drying the hydrolyzed cellulose to form microcrystalline cellulose.

Moreover, like claim 1, claim 12 calls for the addition of water, prior to de-aggregation, to the hydrolyzed cellulose of step i) to form a solution, neutralizing the solution to a pH of 5.5 or greater. Again, the Jollez ‘148 provisional application fails to teach or suggest this limitation. Therefore, claim 12 is not obvious over the ‘148 provisional application. As claims 12-26 and 28

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depend from and incorporate the limitations of claim 12, they are also not obvious over the Jollez '148 provisional application.

III. Conclusion

A favorable action is earnestly solicited. Applicants respectfully request that a timely Notice of Allowance be issued in this application.

The Examiner is requested to contact the undersigned in the event that a telephonic interview would advance the prosecution of this application.

Respectfully submitted,
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